CHILD REQUIRING ASSISTANCE
aka An Act Regarding Families and Children Engaged in Services
Chapter 240 of the Acts of 2012
Effective November 5, 2012

Statewide Managers Meeting
September 27, 2012
OVERVIEW OF CHANGES

• Creation of a Community Based Services Network to provide services to Children Requiring Assistance

• Establishment of a Family and Children Requiring Assistance Advisory Board

• Changes to CHINS law

• Additional Requirements for DESE
COMMUNITY BASED SERVICES NETWORK

- New Section: Chapter 6A, section 16U. Requires the Secretary of Health and Human Services to:

- Establish a comprehensive and integrated network of child and family service programs and family resource centers (the network) throughout the commonwealth to provide community-based services for families with children requiring assistance. The establishment of the network would be under the following timelines:
  - Design a pilot program, with the advise of the board, within 1 year from the effective date (Nov 5, 2012). This is not subject to appropriation.
  - Subject to appropriation, implement a pilot program and establish pilot family resource centers or a community-based service system programs in each county of the state (total of 14) within two (2) years from the effective date of the act.
  - Subject to appropriation or third party reimbursement, implement the entire system, within three (3) years from the effective date of the act.
Community Based Services Network

- **Develop guidelines** and **standards** to achieve and maintain the integrated network.
- Require the use of **standardize intake screening and assessment tools** used by the community-based service network to evaluate families and children.
- **Coordinate the services** provided by the network.
- **Encourage cooperation** among local providers to provide the services provided by the network.
- **Monitor** and provide **technical assistance** to the network.
- **Promote efficiency and access to existing services** in establishing the network by including: organizations that are part of the comprehensive community–based behavioral health delivery system coordinated by the secretary under section 16S; organizations that provide services or have experience in coordinating access to community-based services such as local schools; other local public agencies, private organizations, or medical or mental health care providers.
- **Create a data collection** system for use by the community-based service network.
Community Based Services Network

• Purpose of Services:

  – (i) assist families so that, whenever possible, children may continue residing with their families in their home communities;
  – (ii) assist families to enable children to continue as students in their community schools;
  – (iii) strengthen the relationships between children and their families; and
  – (iv) provide coordinated, comprehensive, community-based services for children at risk of dropping out of school, committing delinquent acts or engaging in behaviors which impede the likelihood of leading healthy, productive lives.

• The services are to include treatment for or assistance with: eligibility determinations, behavioral, medical and mental health needs, special education evaluation, remedial education services, assistance with insurance issues, mentoring, family and parent support, civic engagement and community service, after school and out-of-school opportunities, residential programs, crisis management and case management.
• Documentation of the services and information provided by the families will be confidential and shall not be a public record under Massachusetts law. Except as provided by law, statements made while receiving services are also confidential and may not be used in any proceedings without written consent of the person. However, the law provides for the sharing of information, subject to federal law limitations, among the case team, the providers of services and agencies within EOHHS providing services to the family for the coordination of services and case management unless the family specifically declines such use. Participation in services will be voluntary, but can be subject to payment or allowing their insurance to be billed for the services. [MGL c 6A, sec 16U(d)]
The law establishes a Family and Children Requiring Assistance Advisory Board to assist and advise the Secretary on the development and implementation of the community-based service network and to monitor the progress. The board is within, but not subject to EOHHS.

The board must be established within 30 days of the passage of the law and the first meeting must be held within 60 days.

The Governor and the Chief Justice of the Juvenile Court designate 1 board member each to serve as co-chairs of the board. (Board consists of approximately 20 members.)
Family and Children Requiring Assistance Advisory Board

- Commissioners DCF, DYS, DMH, DPH, DESE,
- Director Office of Medicaid
- Child Advocate
- DCF Adolescent SW approved Pilot RD
- DMH Case Manager Approved Pilot RD
- Juvenile Judge and Probation officer
- Chair of CPCS Board
Family and Children Requiring Assistance Advisory Board

- 1 member appointed by Speaker of House
- 1 member appointed by Pres Senate
- 1 member appointed by Minority leader of House and 1 by minority leader of Senate
- 5 members appointed by governor:
  - DA, independent education advocate, private provider of children’s behavioral health services, parent who is not a Commonwealth employee, member municipal police
In addition to advising and monitoring, the board is charged with the specific tasks of proving a mechanism for the clerk of the juvenile court to obtain certain information deemed necessary to assist with providing services and evaluating the programs and make referrals to the community-based services network and to coordinate with the probation department to obtain specific data from the juvenile courts where the pilot programs are established.

The Board must also keep informed of the probation department’s development of a data collecting system and of the juvenile court’s effectiveness in providing assistance to children and families who seek or are subject to assistance.
Family and Children Requiring Assistance Advisory Board

- EOHHS, DESE, Probation and the juvenile court must provide periodic data reports to the advisory board. Within 12 months of the effective date of the act, the Board is required to submit to the governor and the senate and house ways and means recommendations for funding and implementation activities based on the review of the data provided.

- The Board is also required to file an annual report on or before January 30 on the progress of the implementation of the pilot programs and of full implementation of the services network, including a recommended budget and any legislative changes. The report is to be filed with the Governor, child advocate, house and senate on ways and means, the joint committee on children and families and persons with disabilities and the joint committee on the judiciary.
EHS, ESE, Court, Probation provide periodic data reports to advisory board

**TIMELINE**

- **8/7/12** 7 Bill signed
- **11/5/12** (90 days) **Effective date**
- **12/5/12** (Within 30 days): **Appointments** to Advisory Board
- **1/4/13** (Within 60 days): **First meeting** of Advisory Board
- **1/30/13** (& each year thereafter on this date): Board report on **recommendations** for funding and implementation
- **11/5/13** (within 12 months):
  - **Probation** files first annual probation **data** report
  - The **advisory board** shall submit **recommendations** to the governor and house/senate committees on W & M for funding and implementation activities
  - The **secretary of health and human services** shall, with the advice of the advisory board **design a pilot program** for the delivery of community-based services for children requiring assistance which shall include a family resource center and shall be compatible with existing community-based service systems
- **11/5/14** (within 24 months): EHS Sec shall **implement the pilot program** and establish a pilot family resource center or a community-based service system program in each county
- **11/5/15** (within 36 months): EHS Sec **establish a network** of child and family service programs and family resource centers throughout the commonwealth to provide community-based services to families with children requiring assistance

**EHS pilot review & recommendations**
Changes to CHINS Law

- Changes the name of the current CHINS population to “Child Requiring Assistance”

- Increases the age of the population up to 18 from 17 years old. However, section 23 limits the age at which a dispositional order can continue to be effective – 16 for if School (truancy, fails to obey school rules) files and 18 if parent/guardian/custodian file (runaway, refuses to obey rules at home).

- Add definitions to Chapter 119, section 21:
  - “family requiring assistance”: a parent, guardian, custodian, sibling and any relative or caretaker responsible for a child requiring assistance.
  - “habitually truant”: a school-aged child, not excused from attendance under the lawful and reasonable regulations of such child’s school, who willfully fails to attend school for more than 8 school days in a quarter.
Changes to CHINS Law

- Restricts information from proceedings under this law from being entered into the criminal offender record information system.
- Limits the retention of a record of an application for assistance after the application is dismissed. (Section 6)
- Requires the expungement of any records of the request for assistance and related proceedings which is dismissed prior to accepting the application for assistance. (Section 9)
- Section 39E was amended by eliminating the current ability of a police officer to file a CRA petition for a runaway but allows for a parent, legal guardian, or custodian with custody of the child to file. (Section 7)
Changes to CHINS Law

• Changes the language from “supervisor of attendance” to “a school district” for the authorization to file an application for assistance for a child who is habitually truant or child who fails to obey the lawful and reasonable rules of the school. (Section 8)

• The school will be required to state what steps have been taken to prevent the child’s truancy, including any participation in a truancy prevention program, and to improve a child’s conduct who is not obeying the school’s rules.
Changes to CHINS Law

• The clerk of the juvenile court will be required to inform the petitioner that they can delay the filing of the application, choose to be referred a community-based services program, a family resource center or other entity designated by EOHHS to provide community-based services in the court district where the child lives and return to the court later if needed.

• The clerk of the juvenile court is also required to prepare, publish, and provide informational material to the petitioner on the availability of the community-based services. If the petitioner is a parent, legal guardian or custody the clerk must also provide the petitioner with information on the court process, the types of orders that may issue, including custody changes, and an explanation of the services available through the court process.

• The Commissioner of Probation to required to establish a data collection system for requests for assistance, which includes data on any referrals to public or private organizations for services.
Changes to CHINS Law

Time Frame Changes:

– From filing the request to the preliminary hearing: No later than 15 days after filing request (current law no time frame)
– Time for Informal Assistance (by Probation generally) 90 Days from filing request with one 90 day extension (Current Law 6 months with 6 month extension)
– Time to Hearing on the Merits: No time limit
– Dispositional Orders: First order 120 days with no more than three(3) 90 day extensions. [390 days] (Current 6 months with 6 month extensions, not limited).
Changes to CHINS Law

- Section 39G was amended to provide the parent, guardian or custodian an opportunity to be heard at the hearing on the merits. It adds ability for the petitioner or any party to file a motion to dismiss prior to the time for the hearing on the merits. (Section 16)

- Section 39F was amended to require a copy of the application for assistance and the notice of any hearing to be provided to child’s counsel. (Section 14)

- Section 39F was also amended to add the right of a parent to counsel in any hearing or proceeding where custody is an issue. This right was established by a Supreme Judicial Court decision, In the Matter of Hilary, 450 Mass. 491 (2008). This section adds to the statute the right provided by that decision. (Section 14)
Changes to CHINS Law

• Section 39H was amended to eliminate the bail provision of the current CHINS law. In its place, this section allows for a child who the court finds is not likely to appear at a fact finding or dispositional hearing to be released with conditions or to be placed in the temporary custody of DCF. Prior to placing a child in the temporary custody of DCF, the court must make a written certification that it is contrary to the best interest of the child to be home and that DCF has used reasonable efforts to prevent removal from the home or that there is an immediate risk that prevents DCF from using efforts to prevent removing the child from his/her home. This custody order is only valid for 15 days without a further hearing but can be extended for 15 day periods up to 45 days. (Section 30)
Changes to CHINS Law

- The bill adds a requirement that upon a court finding that a child requires assistance, the *court shall convene a conference* to determine the most effective assistance available to be offered the family and child. The participants of the conference include the probation officer, the petitioner, a representative from the child’s school, the parent/guardian or custodian, the child and child’s attorney, a representative of the community-based services if involved with the family, a *representative of DCF if involved with the family* and any other person who may help in determining the treatment and services for the child and family. (Section 16)

- The probation officer and others at the conference *may present recommendations to the court* and present evidence on the best disposition, including the child and parents.

- The dispositional options remain unchanged from the current law.
Changes to CHINS Law

• The words “arrest” are changed to “custodial protection”.

• Section 39H currently allows a police officer to arrest a child for engaging in the behaviors that fall under the definition of CHINS if the child fails to respond to a court summons. The amendments change the “arrested” language to “taken into custodial protection”. Other process and provisions are similar to the current process, which is to notify the parent or custodian and take the child home or notify DCF if the child is in DCF custody. The law clarifies that the child is not to be taken to a police station and that a child in custodial protection cannot be placed in shackles, similar restraints or be held in a court lockup. (Sections 24-29)
Changes to CHINS Law

• The law provides that children subject to a request for assistance cannot be placed in a locked facility or any facility designated or operated for juveniles alleged to be delinquent youth or adjudicated, but does allow placement in a therapeutic group home for juveniles regardless of whether alleged delinquent or adjudicated juveniles are provided care in the facility. The change was from adjudicated children to any child subject to a request (Section 19)
Changes to CHINS Law

• Adds to Section 39G a provision that if a family or child are directed by the court to participate in treatment or services which are eligible for coverage by an insurance plan or other third-party payer, payment for the services shall not be denied if the treatment or services otherwise meet the criteria for coverage. (Section 19)

• Eliminates the trial by jury provision of the current law. (Section 12)
Changes to CHINS Law

• Section 39I was amended to eliminate an appeal to a jury trial and to provide for the appeal of any order or determination under Sections 39E to 39H to be to the Appeals Court under chapter 231 section 118 and to follow the rules of appellate procedure that govern child welfare cases. (Section 31)

• Chapter 231 section 118 was amended to add the juvenile court to the list of courts whose interlocutory orders would proceed via the Appeals Court. Currently an interlocutory order from the Juvenile Court is taken to the Supreme Judicial Court. This revision would impact not only CHINS cases, but all interlocutory orders in all juvenile court cases, CHINS, Care and Protections and Delinquency. (Section 33)
OTHER PROVISIONS

• Subject to appropriation, Secretary of HHS shall create a pilot program to address unique needs of girls who run away from their parents and legal guardians. (Section 39).

• Schools will be required to refer a student who is being expelled from school to a community-based services program or family resource center if one has been established in the geographic region where the child lives and will be required to consider the outcome of the services as part of the expulsion hearing or after if provided by the student. Notwithstanding any outcomes, school districts shall make available to expelled students educational services designed to lead to re-entry to education program or high school diploma.
OTHER PROVISIONS

• Subject to appropriation, DESE shall develop a pilot truancy prevention program. (Section 38)

• Schools will be required to refer a student who is truant to a truancy prevention program, if one is available at the school, before referring the child and family to the community-based services.

• The legislation requires the Department of Elementary and Secondary Education (DESE) to establish regulations for the certification of truancy prevention programs.
OTHER PROVISIONS

• The Secretary of HHS is required to provide a mechanism for the clerk of the juvenile court to obtain information and referrals to family resource centers or community-based services programs, if available, and any other entity available to provide services to children or families. (Section 36)

• The commissioner of probation is required to report annually on the CRA population. Such report is sent to the advisory board, and legislative committees – ways and means, judiciary and children, families and persons with disabilities. (Section 37)
Possible Amendments

• Include sexually exploited children in the definition of CRA

• Change the terms child in need of services to child requiring assistance in section 39L of chapter 119. (added by Human Trafficking Bill)

• Modify section 39I of chapter 119 to clarify that appeals from final orders of CRA cases would proceed via the rules of appellate procedure for child welfare cases and not c. 231, sec 118.
NEXT STEPS

• Discussions with Courts on Implementation

• Determine impact on Current CHINS cases

• Revisions of Policy and Regulations to Reflect new terms

• Monitor Amendments to Law Process

• QUESTIONS??
MOVING FORWARD